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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Paper No. 18

Serial Number: 511,951  
Filing Date: 04/16/90  
Appellant(s): Ole K. Nilssen,

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BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ole K. Nilssen  
For Appellant

91-2861

EXAMINER'S ANSWER

MAILED

JUN 13 1991

GROUP 250

This is in response to appellant's brief on appeal filed 4-15-91.

(1) *Status of claims.*

The statement of the status of claims contained in the brief is correct.

(2) *Status of Amendments After Final.*

No amendment after final has been filed.

(3) *Summary of invention.*

The summary of invention contained in the brief is correct.

(4) *Issues.*

The appellant's statement of the issues in the brief is substantially correct. The changes are as follows: the claims are rejected on Spira, Kivari's and Neumann, not merely Spira and Neumann as stated in the brief.

(5) *Grouping of claims.*

The brief includes a statement that claims do not stand or fall together but fails to present reasons in support thereof. Therefore, these claims are presumed to stand or fall together.

(6) *Claims appealed.*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(7) *Prior Art of record.*

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

4,207,498	Spira	6-80
4,506,318	Nilssen	3-85
3,496,518	Neumann	2-70
2,587,169	Kuvari	2-52

(8) *New prior art.*

No new prior art has been applied in this examiner's answer.

(9) *Grounds of rejection.*

The following ground(s) of rejection are applicable to the appealed claims.

Claims 1-19 are rejected under 35 U.S.C. § 103 as being unpatentable over Spira in view of Kivari and Neumann.

The Spira et al reference discloses a high frequency inverter 22, illustrated in Figure 3, rectifier 21, illustrate in Figure 5, transmission line 36, illustrated to Figure 2, and lamp fixtures 40,41. Further, in column 9, lines 25-34, the Spira et

al reference teaches "Although the arrangement of Figure 4 shows the invention in connection with fluorescent lamps, it should be understood that the invention can be applied to the energization and dimming of any gas discharge lamp. Indeed, the invention can be used to operate and dim incandescent lamp..." and in column 7, lines 13-25, particularly, "Amplitude variation is obtained by delaying the application of the firing signal to thyristors 52 and 53 and thus varying the duty cycle of the inverter . Thus, the conduction time of the thyristors, during one half cycle, is reduced and less voltage is applied to the primary winding 56. The Neumann et al reference discloses a distribution system including a track which permits selective connection thereto at any point along the length of the track by means of a connector member...power by 120 volts or 240 volts, column 1, lines 35-70. See Kivari's column 1, lines 4-10, "A main object of the invention.. incandescent lamp adapted for use with ordinary house light circuit..including means for reducing line voltage to a relatively low voltage...". Given the Spira et al specific teaching of an incandescent lamp high frequency circuit without the ballast circuit of Figure 4, it would have been obvious to use Kivari's incandescent lamp combination in lieu of ballast-lamp fixture 40. It would have been equally as obvious to use the Neumann et al track power distribution means in lieu of the Spira et al transmission line distribution means 36 because they were

known equivalents at the time the invention was made. Note that the track means 11 of Neumann et al and track means DT of the instant case provide only mechanical support for the electrical conductors, the lamps, the sockets,...etc. and that the operation frequency is immaterial to the track support since a track support means will support any frequency operating lamp or even a DC operating lamp.

Claims 1-19 are rejected under 35 U.S.C. § 103 as being unpatentable over Nilssen cited in view of Kivari and Neumann.

Nilssen's high frequency converter of Figure 1 corresponds exactly to the instant converter of Figure 1 with incandescent lamp THL and step-down transformer HFFT. Obviously, resistance  $R_3$  varies the RC time constant of circuit  $R_2$ ,  $R_3$  and  $C_3$  with correspondingly variable RMS voltage at terminals CJ and x. It would be obvious to connect across Nilssen's terminals CJ and x either a step-down transformer lamp combination, such as Kivari's step-down transformer lamp combination, or 120 volts incandescent lamp without a step-down transformer, especially since Kivari teaches the same type of step down transformer, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the lamp combination of Kivari for the lamp combination of Nilssen's at terminal CJ and X in order to reduce the line voltage. Further, it would be equally as obvious to support Nilssen's incandescent lamp system in a track

support, such as the Neumann et al track support, because Nilssen teaches a high frequency converter being used for powering low-voltage incandescent lamps having a step down transformer, the combination of this circuit and a lamp (load) could be used in any form such as a track light as shown by Neumann.

*(10) New ground of rejection.*

This Examiner's Answer does not contain any new ground of rejection.

*(11) Response to argument.*

It is noted that claims of present application are precisely the same claims as those previously rejected in the parent application and affirmed by board of appeals on 3-29-90 but the applicant is changing his arguments.

In the "Arguments" applicant refers to: 1) Exhibits E and F of record, that Giorgis and Schneider identified the claimed invention as being non obvious over the Prior Art.

In response in the affidavits submitted by Giorgis and Schnider, the probative value of each affiant setting forth "an obvious application" of Spira's teachings is found to be negligible since both affiants Exhibit E, page 4 (H) and Exhibit F, page 4(H) admit that they have never seen appellant's application and claims. The lack of nexus between the claimed subject matter and the conclusions reached in the affidavits renders both affidavits insufficient to prove that which is

discussed therein (refer to decision by board of appeals, Paper No.9, page 4).

2) Mr. Fiend testifies that Kivari reference is defective, for instance, Kivari's incandescing means -by virtue of its indicated physical dimensions could not deliver more than a fraction of one watt.

In response, All US patents are assumed to be operative and valid, unless otherwise proved. In order to provide more power in Kivari's lamp a transformer of larger size should be used, the neck of the lamp glass envelope could also be made wider than what is shown in figure 1 of Kivari therefore more power would be provided by Kivari's lamp, further Kivari in column 3, lines 9 and 10 discloses "it is to be understood that various modifications within the spirit of the invention may occur to those skilled in the art". To provide different outputs by using different transformers (19) in Kivari's incandescent lamp would be an obvious modification of the Kivari's lamp and is within the spirit of his invention.

Further should be noted that the argument that larger transformer would be required is purely speculative. The power handling capacity of a transformer is dependent on many other factors in addition to size. For example, modern core and winding materials could permit a much smaller transformer in Kivari than that shown in this 1952 patent. In any event, Appellant provides

Serial No. 511,951

-7-

Art Unit 252

no evidence in support of this argument.


Therefore the Personal opinion by affiant regarding the invalidity or inoperativeness of Kivari is not persuasive.


3) There is no motivation for modification of Nilssen on basis of teachings of Kivari and Neumann.

In response, since Kivari teaches the same type of step down transformer as Nilssen's it would have been obvious to substitute the lamp combination of Kivari for the lamp combination of Nilssen's at terminals CJ and x in order to reduce the line voltage. With respect to the opinions of obviousness, the affiant (Dale E. Fiene) is not qualified as a registered attorney so his opinion with respect to legal issues such as obviousness and patentability of the present claims is given no weight. Applicants arguments are not based on facts and it is merely the personal opinion of applicant (Affiant).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

  
EUGENE R. LAROCHE  
SUPERVISORY PATENT EXAMINER  
GROUP ART UNIT 252

Zarabian/dm   
June 06, 1991